

## MEETING RECORD

**NAME OF GROUP:** PLANNING COMMISSION

**DATE, TIME AND PLACE OF MEETING:** Wednesday, May 14, 2003, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

**MEMBERS IN ATTENDANCE:** Jon Carlson, Steve Duvall, Roger Larson, Greg Schwinn, Cecil Steward, Mary Bills-Strand and Tommy Taylor (Patte Newman submitted her resignation on May 9, 2003, having been elected to the City Council on May 6, 2003; Gerry Krieser absent); Marvin Krout, Ray Hill, Mike DeKalb, Brian Will, Tom Cajka, Becky Horner, Greg Czaplewski, Jean Walker and Teresa McKinsty of the Planning Department; media and other interested citizens.

**STATED PURPOSE OF MEETING:** Regular Planning Commission Meeting

Chair Greg Schwinn called the meeting to order.

Mayor Wesely thanked the Commissioners for their service to the city and all the great work they have done and continue to do planning for the future of this city. Mayor Wesely then presented a plaque to Patte Newman in appreciation for her service on the Planning Commission the past three plus years. She has been a true leader and will have the opportunity to serve our community as a City Council member.

Ms. Newman gave parting remarks and commending the city staff and the Planning Department for the work they do. She also commended the Commissioners as models of true volunteerism at its best.

Schwinn then read into the record, Resolution No. PC-00809 by the Planning Commission expressing appreciation to Patte Newman for her years of service on the Planning Commission. Steward moved to approve the resolution, seconded by Bills-Strand and approved unanimously.

Schwinn then requested a motion approving the minutes for the regular meeting of the Planning Commission held on April 30, 2003. Carlson moved approval, seconded by Bills-Strand and carried 7-0: Carlson, Duvall, Larson, Schwinn, Steward, Bills-Strand and Taylor voting 'yes'; Krieser absent.

**CONSENT AGENDA**

**PUBLIC HEARING & ADMINISTRATIVE ACTION**

**BEFORE PLANNING COMMISSION:**

May 14, 2003

Members present: Bills-Strand, Steward, Carlson, Duvall, Larson, Taylor and Schwinn (Newman resigned; Krieser absent).

The Consent Agenda consisted of the following items: **SPECIAL PERMIT NO. 2013; FINAL PLAT NO. 03004, TAMARIN RIDGE ADDITION; and STREET AND ALLEY VACATION NO. 03007.**

Taylor moved to approve the Consent Agenda, seconded by Steward and carried 7-0: Carlson, Duvall, Larson, Schwinn, Steward, Bills-Strand and Taylor voting 'yes'; Krieser absent.

Note: This is final action on Special Permit No. 2013 and the Tamarin Ridge Addition Final Plat No. 03004, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

**SPECIAL PERMIT NO. 421D**

**TO AMEND THE CARRIAGE HILL 4TH ADDITION**

**COMMUNITY UNIT PLAN, ON PROPERTY**

**GENERALLY LOCATED AT**

**SOUTH 81ST STREET AND "A" STREET.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 14, 2003

Members present: Bills-Strand, Steward, Carlson, Duvall, Larson, Taylor and Schwinn; Krieser absent; Newman resigned.

Staff recommendation: Conditional approval.

Ex parte communications: Bills-Strand reported that she received one phone call from a resident and she encouraged the individual to come to the public hearing.

Greg Czaplewski of Planning staff submitted a letter from the Carriage Park Homeowners Association with concerns about the use of their privately owned street and sanitary sewer.

Proponents

**1. J.D. Burt of Design Associates**, 1609 N Street, presented the application on behalf of **Frank and Joann Rall**. Burt stated that this proposal probably represents the last infill project in this particular portion of the community. The property is about 2 acres, being

located on the north side of "A" Street, and this proposal includes construction of 4 townhouse type structures, each with individual ownership, very similar with the Carriage Park development to the east.

Burt advised the Commission that prior to submittal and final design, the applicant contacted the Carriage Park Neighborhood Association to the east, and had good discussion with one of the members and owners that lives adjacent to the property and is most affected by this development. Burt acknowledged that acquiring access across private property and ultimate development would require negotiated terms of agreement to join the association and participate in maintenance of the street, sanitary sewer, etc. Burt suggested that this project, like any other project, contains two typical characteristics – drainage and trees. This site is not unusual to those conditions. The applicant has done a lot of design in an effort to save some trees. Saving trees prompted the request for waiver of street trees and alternate location of sidewalks; however, Burt withdrew the request to waive sidewalks and street trees.

With regard to drainage, Burt noted that back when the Carriage Park Association was going through the approval process, drainage was a major concern and as part of that development there were two detention cells constructed within its boundaries on the east. That drainage area has 33 acres and the design has been done to accommodate the 100-yr. event. This proposal utilizes the remaining capacity in that detention cell with some of the surface drainage. The applicant has met with Carriage Hill and explained the drainage configuration. It is this developer's desire to minimize runoff to the north; to maximize the flow to the east; and to utilize the detention cells to everyone's benefit. This developer also proposes to do some reconstruction of storm sewer located in Carriage Park to the east to eliminate drainage problems that currently exist.

Burt then requested that Condition #1.1.1 be deleted to allow the building setback from the north property line to be a little larger than Carriage Park to the east. This will allow the buildings to be further away from the neighbors to the north.

Burt also requested that Condition #1.3 be deleted. This condition requires approval of the drainage situation by the homeowners association to north. Burt suggested that the city already has a review process in place for compliance with drainage design standards. The developer would be very happy to provide the information and will comply with storm sewer requirements.

Steward commented that it appears that the development would be very tight on sidewalk bypassing parked cars in the driveway if the setback at the rear is increased and all other dimensions remain the same. Burt stated that he has not calculated it, but he recalls a 28' wide driving surface. He pointed out that in similar situations with private roadway design standards, they could reduce that down to 20'. He believes it is an appropriate distance having a minimal number of units. This attempts to minimize disruption and loss of trees.

Schwinn noted that the zoning is R-1, and this basically piggybacks onto the existing CUP. Burt explained that there are two special permits in this area: Carriage Hill to the north and Carriage Park to the east. This application amends the property to the north, Carriage Hill, but the owners would be part of the Carriage Park Association.

Schwinn referred to the flag lot with access onto Hickory. Burt stated that it is loaded with trees and vegetation. When they first met with the neighbors to the east, they were concerned about the cost of maintenance and liability, and the other issue was trees. Some of the neighbors had raised concern that they would like the trees on the east removed, and others have suggested that all the trees be saved. Other development options would require removal of those trees.

Taylor inquired further about the concerns of the Carriage Park homeowners, i.e. storm water drainage. Burt is requesting deletion of Condition #1.3 because he believes it is the city's responsibility and obligation to review, document and accept that the storm water is taken care of, not the responsibility of the homeowners association. Burt confirmed that when the developer met with the Carriage Hill homeowners to the north, the developer's comment was that he did not want to make it worse than it is today, and hopefully this development will make it better. This development takes one acre of surface drainage that is now going down through their back yards and relocating it to a detention cell.

Bills-Strand believes that this developer has to be able to reach agreement to use the Carriage Hill private roads and become a part of their association. Burt understands that they have to have an agreement with the neighbors to the east.

Carlson clarified that Carriage "Park" is to the east, and it is Carriage "Hill" to the north that is worried about storm water. Burt stated that the developer understands that he needs to work with both associations. It is this developer's desire that the drainage be better for them. and they need to talk with the folks to the east regarding access and sanitary sewer. If they are not successful in reaching agreement, the developer would like to be able to administratively amend the plan to provide an alternate access in order to proceed.

### Opposition

**1. Donald Dischner**, 8140 Hickory Lane, member of the Board of Directors of **Carriage Hill 2<sup>nd</sup> Addition Homeowners Assn.**, referred to the conditions of approval, and indicated that the association also recommends the removal of Condition #1.1.1 so that the setbacks be provided as shown on the submittal. It will provide greater space between their association units which should also help water runoff. Both associations would have the benefit of not having to remove mature trees.

Dischner also agreed that Condition #1.3 should be deleted. The members do not feel they have the expertise to determine the accuracy of the developer's drainage proposal, and the association does not have adequate funds to engage the services of an engineer. He agrees that the city has competent staff to make that determination. Staff needs to address the: 1) amount of water to be diverted on the street/driveway of Carriage Park CUP, which is being diverted into a holding pond; 2) adequacy of the holding pond; 3) the amount of water being diverted; 4) runoff; and 5) analyze water buildup on their association's common area from the drainage of the back of the common area to the front of the property. The pond has been taking the water adequately, however, the water does form a stream on the common area from the back of the property to the front of Hickory Lane. Their concern is the water coming on the common area. If this development is approved, he suggested that the sidewalk on the south side of Hickory Lane be continued between the two existing properties.

**2. Clifford Bomberger**, 8101 Hickory Lane, referred to the map and showed his property. His concern is water runoff. When it rains, there is a four to five foot wide stream and he is fearful this will increase with further development. He would like assurance from the developer that they will take care of this if it becomes a problem.

#### Staff questions

Carlson asked whether any of the conditions of approval address the small sidewalk out on Hickory Lane. Czaplewski advised that there is an administrative final plat in process and the sidewalks would need to be installed as part of that process.

Carlson inquired as to the city's process regarding the storm water issue. Czaplewski suggested that the staff would agree to amending Condition #1.3 (rather than deleting it), such that the developer submit documentation that demonstrates to the City (rather than the homeowners association) and the city is satisfied that there would not be any intensification of drainage problems.

Steward suggested that technically, the requirements of Condition #1.2, together with amended Condition #1.3, should resolve the property owners concerns regarding drainage. Czaplewski concurred.

Schwinn asked whether Public Works is familiar with this drainage area. Dennis Bartels of Public Works responded in the affirmative, stating that the city participated in building that detention pond. Schwinn commented that lots of times neighbors perceive they have water problems when there are well-engineered water conditions. Do we have well-engineered water conditions here? Bartels stated that the detention pond was added to solve a problem. Some of the houses were built lower than they should have been. Public Works had to retrofit a solution. The detention pond was built and oversized to match the outlet that we had. Bartels believes it is a workable situation. They are experiencing some bad pressure from

the pond. He believes the situation will either be improved or not any worse than it is now after the proposed development.

Carlson inquired about the request to delete Condition #1.1.1. Czaplewski stated that staff would not object to deleting the condition, as long as they can maintain 22' between the garage door and the sidewalk with these units.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

May 14, 2003

Bills-Strand moved to approve, with conditions, with amendment to Condition #1.1.1 to require 22' between the garage door and the sidewalk, and to amend Condition #1.3, that the developer demonstrate to the city that the development will not intensify or further increase drainage problems, seconded by Larson.

Schwinn commented that he did a rough calculation and they have over two acres and the ability to do a lot of things. Working with the neighbors in this way is the best option for the whole neighborhood.

Motion for conditional approval, with amendments, carried 7-0: Bills-Strand, Steward, Carlson, Duvall, Larson, Taylor and Schwinn voting 'yes'; Krieser absent; Newman resigned.

**SPECIAL PERMIT NO. 2010,**  
**PINE LAKE HEIGHTS SOUTH 8<sup>TH</sup> ADDITION**  
**COMMUNITY UNIT PLAN,**  
**ON PROPERTY GENERALLY LOCATED**  
**AT SO. 30<sup>TH</sup> STREET AND YANKEE HILL ROAD.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 14, 2003

Members present: Bills-Strand, Steward, Carlson, Duvall, Larson, Taylor and Schwinn; Krieser absent; Newman resigned.

Staff recommendation: Conditional approval.

Ex parte communications: None.

Brian Will of Planning staff submitted a revised staff recommendation adding Condition #2.5 to make the conditions of community unit plan special permits where the requirement for a preliminary plat has been waived consistent with the conditions normally attached to the preliminary plat.

Will also submitted a letter from the applicant requesting a two-week deferral. During course of review, a waiver was shown on the site plan but was not requested with the original

application and thus was not advertised. Will requested that the deferral be four weeks rather than two weeks to give adequate opportunity for readvertising and a new staff report.

Bills-Strand moved to defer four weeks, with continued public hearing and administrative action scheduled for June 11, 2003, seconded by Taylor and carried 7-0: Bills-Strand, Steward, Carlson, Duvall, Larson, Taylor and Schwinn voting 'yes'; Krieser absent; Newman resigned.

There was no other public testimony.

**SPECIAL PERMIT NO. 2014,**  
**NORTHVIEW VILLAS COMMUNITY UNIT PLAN,**  
**ON PROPERTY GENERALLY LOCATED**  
**AT NO. 24<sup>TH</sup> AND DODGE STREETS.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 14, 2003

Members present: Bills-Strand, Steward, Carlson, Duvall, Larson, Taylor and Schwinn; Krieser absent; Newman resigned.

Staff recommendation: Conditional approval.

Ex parte communications: None.

Becky Horner of Planning staff submitted additional information for the record including a request from the applicant for a two-week deferral to meet with the neighborhood association and to provide additional information on traffic generation, and a request from Regalton Homeowners Association for a two-week delay.

Steward moved deferral for two weeks, with continued public hearing and administrative action scheduled for May 28, 2003, seconded by Bills-Strand and carried 7-0: Bills-Strand, Steward, Carlson, Duvall, Larson, Taylor and Schwinn voting 'yes'; Krieser absent; Newman resigned.

There was no other public testimony.

**SPECIAL PERMIT NO. 2015,**  
**FOR A BROADCAST TOWER ON PROPERTY**  
**GENERALLY LOCATED AT**  
**NO. 33<sup>RD</sup> STREET AND GLADSTONE STREET.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 14, 2003

Members present: Bills-Strand, Steward, Carlson, Duvall, Larson, Taylor and Schwinn; Krieser absent; Newman resigned.

Staff recommendation: Deferral, pending review by the Nebraska Capitol Environs Commission.

Ex parte communications: None.

Proponents

**1. Bill Frost, 1000 Robert Road, Chief Engineer for KLIN and Nebraska**

**Broadcasting** presented the application. This proposal to construct a tower is due to the fact that KLIN's present location at 40<sup>th</sup> & "O" Streets is actually a temporary location. Their former tower at the Haymarket Ballpark location was condemned in 1990. That tower at 40<sup>th</sup> and "O" is not designed for their frequency and they wish to optimize the performance of the station.

Frost advised that they did meet with Planning staff and the staff has found that this area is appropriate based on the zoning and other uses. The station's choices of locations are also constrained by FCC requirements to provide a certain level of signal coverage. The 33<sup>rd</sup> and Gladstone location is at Dead Mans' Run and Salt Creek, and is currently used for agricultural purposes. There will be a 10' x 12' prefab concrete shelter and the tower will be a guyed tower of 220' in height with a fenced tower base. What is unique to this tower and unique to AM radio stations is that there are 120 wires, 175' long, buried in the ground as part of the antennas. This is the reason for requesting the waiver of landscaping/screening requirements. The applicant agrees with the alternate screening plan recommended by the staff.

Frost also acknowledged that the site is located in the floodplain. The site has been reviewed by the NRD and the NRD is willing to work with the radio station to resolve any drainage issues.

Frost also acknowledged that the site is near the proposed extension of 33<sup>rd</sup> Street to take it across Salt Creek and tie into Superior Street. The applicant has met with Wayne Teten, the Antelope Valley Project Manager, and they have located the site far enough into the corner so that it does not interfere with that right-of-way. They have also coordinated with the Army Corps of Engineers. Efforts have been made to minimize the visual impact of the tower. This site is over 1000' from any public or private road. The tower will be painted with low intensity



red lights instead of a galvanized tower with a flashing white beacon. The site is screened by the levies of Salt Creek and Dead Man's Run in addition to the screening plants.

Frost understands that the Capitol Environs Commission has indicated that they would like to review this proposal; however, the applicant believes that this tower will have a minimal impact on the Capitol View Corridor.

Steward inquired whether radio towers can accept collocation. Frost answered in the affirmative, stating that this site is designed to accept collocation. The 500' tower to the north is not designed for an AM site, and even if modified, it would result in a tower of inappropriate height for KLIN's purposes. KLIN does not own the site at 46<sup>th</sup> & Vine. The tower is owned by another broadcast entity. KLIN did propose a modification of that tower, which was rejected. The property is owned by Wyuka and they have indicated that they will no longer renew that lease.

Steward asked what impact a two-week delay might have as he would be more comfortable hearing from the Capitol Environs Commission before voting. Frost stated that KLIN would prefer to have it done sooner rather than later. Brian Will of Planning staff advised that the Capitol Environs Commission will be meeting on May 22<sup>nd</sup>, which is prior to the next regular meeting of the Planning Commission on May 28<sup>th</sup>.

There was no testimony in opposition.

Seward moved to defer two weeks, with continued public hearing and administrative action on May 28, 2003, seconded by Taylor and carried 7-0: Bills-Strand, Steward, Carlson, Duvall, Larson, Taylor and Schwinn voting 'yes'; Krieser absent; Newman resigned.

**WAIVER NO. 03004**  
**and**  
**WAIVER NO. 03005,**  
**FOR EXTENSION OF TIME TO INSTALL**  
**SIDEWALKS AND STREET TREES,**  
**ON PROPERTY GENERALLY LOCATED**  
**AT BEAVER CREEK LANE AND EAGLE RIDGE ROAD.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 14, 2003

Members present: Bills-Strand, Steward, Carlson, Duvall, Larson, Taylor and Schwinn; Krieser absent; Newman resigned.

Staff recommendation: Denial of the extension of time for installation of sidewalks and approval of the extension of time for installation of street trees.

Ex parte communications: None.

Tom Cajka of Planning staff submitted a map of the area to show where sidewalks have been installed within the boundaries of Aspen 5<sup>th</sup> and 6<sup>th</sup> Additions. On the black and white copy of the map, the gray tones are the lots that do not have sidewalks constructed today, but the streets are in.

Proponents

**1. Brian Carstens** appeared on behalf of **Krein Real Estate**. This is a project that is being built now. The streets, sewer and water are in, with 1/3 of the lots yet to be built upon. Because of the location next to the curb, if the sidewalks were installed they would be crushed during construction of the homes. Krein has had a history of putting sidewalks in prior to occupancy. A pedestrian easement sidewalk is in place already. This is just a request for extra time to put the sidewalks in as houses are being constructed.

Steward inquired as to why the already established deadline has been exceeded by almost a year. Carstens explained that Krein platted several lots all at one time and waited quite a while to put the streets and water in before developing that phase. The original 5<sup>th</sup> Addition was a fairly large plat. The street was put in probably a year after the final plat was approved.

Carlson then discussed the aerial photo with the applicant. Carstens stated that every lot that has been built upon has sidewalks constructed.

Cajka further explained that there are two different final plats involved. Some of these areas have been further subdivided into other additions. Carlson can't tell where the sidewalks are located and where they are not installed. Cajka pointed out that there are sidewalks all along Sugar Creek Circle, except for one lot.

Taylor inquired as to the length of the requested extension. Carstens believes the applicant is requesting two years.

Opposition

**1. Daniel Hevelone**, 5011 Eagle Ridge Road, testified in opposition. The lot next to him has been sold for three years and not developed. There are a couple of pedestrian accesses right in the middle of the circle coming from Country Hill Road. On Sugar Creek Circle, there is a sidewalk coming in that goes into a pedestrian path on the east side of Sugar Creek, which is the common area. There is a tremendous amount of pedestrian traffic from both of those additions with children playing and riding their bicycles out in the street. He has real

safety concerns. He would like to see at least the sidewalk put in on Eagle Ridge, from Beaver Creek to Sugar Creek Circle. This would at least give them access on one side of the street. These sidewalks were originally to have been installed

by June, 2002. Another two years makes it 2005. They do not have a neighborhood association yet, so who is liable if some child gets run over out in the street? If the sidewalks are waived, is it the city's responsibility if there is an accident? Hevelone agrees with the staff recommendation.

Taylor inquired where the two-year deadline came from. Cajka explained that it is a requirement of the subdivision ordinance that sidewalks and street trees be installed four years from the date of approval of the final plat. That four years has passed. Aspen 5<sup>th</sup> is almost a year overdue. Aspen 6<sup>th</sup> is about one-half year overdue. Staff's recommendation is to deny the time extension on the sidewalks and that the sidewalks be constructed.

Bills-Strand wondered whether the Commission could require the developer to put the connecting sidewalks in and approve the extension of time for the remainder. Cajka advised that the pedestrian easements that connect are both in place. The waiver is for the sidewalks that are not constructed along the street.

Response by the Applicant

Carstens further stated that Krein has several homes to construct on the south side. In fact, technically, he could replat those lots. The two-year extension is desirable. Carstens suggested that possibly Krein could start to market the property a little harder and get the sidewalks in place in a year. It seems like a waste of time and energy to put the sidewalks in before the property is developed.

Hevelone approached the Commission again, stating that he knows the principle behind this and realizes there will be some cost, but for \$400 to \$500 worth of sidewalk it is pretty cheap compared to someone getting mangled or killed for it. Will the money be kept in escrow for this? Schwinn believes there is money in escrow to construct the sidewalks if the developer does not.

**WAIVER NO. 03004**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

May 14, 2003

Steward moved to approve the staff recommendation, which denies the extension of time for installation of sidewalks and approves the extension of time for installation of street trees, seconded by Carlson.

Bills-Strand thinks this is a waste. She understands about the children riding their bikes so she would like to at least see Lots 9 and 10 with sidewalks. Krein doesn't have the rest of it sold and will have to tear the sidewalks out in order to do the development.

Schwinn commented that he has done a lot of work in existing neighborhoods where the sidewalks have been there and it is not that hard to work around them. There is a safety issue here and he thinks the four years is an appropriate rule.

Steward would have felt differently had there not been as much progress in the development as there has been over four years. There is reasonable indication that this is going to sell so he believes the developer has responsibility to make it as safe as possible.

Motion approving the staff recommendation carried 7-0: Bills-Strand, Steward, Carlson, Duvall, Larson, Taylor and Schwinn voting 'yes'; Krieser absent; Newman resigned.

**WAIVER NO. 03005**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

May 14, 2003

Steward moved to approve the staff recommendation, which denies the extension of time for installation of sidewalks and approves the extension of time for installation of street trees, second by Taylor and carried 7-0: Bills-Strand, Steward, Carlson, Duvall, Larson, Taylor and Schwinn voting 'yes'; Krieser absent; Newman resigned.

**WAIVER NO. 03007**

**FOR EXTENSION OF TIME FOR INSTALLATION OF**

**IMPROVEMENTS ON PROPERTY GENERALLY**

**LOCATED AT SO. 84<sup>TH</sup> STREET AND EAST POINTE ROAD.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 14, 2003

Members present: Bills-Strand, Steward, Carlson, Duvall, Larson, Taylor and Schwinn; Krieser absent; Newman resigned.

Staff recommendation: Conditional approval.

Ex parte communications: None.

Proponents

1. **Jack Lamphere**, 6235 So. 34<sup>th</sup> Street, appeared as Chairman of the **Building & Grounds Committee for the applicant, Good Shepherd Presbyterian Church**. In January, the church received a letter from the Law Department regarding requirements to meet the conditions to which the church had agreed on site improvements, including a

landscape screen on 84<sup>th</sup> Street, various street trees, paving of an extension of Rockledge Road, which would connect 84<sup>th</sup> and Crown Pointe Road, and then a public water distribution and drainage system to go along with that road. At this point in time, the church is proposing to proceed with the sidewalks along East Pointe Road and 84<sup>th</sup> Street down to the current junction with what would become Rockledge Road. The delay has been due to the widening of 84<sup>th</sup> Street. All street trees are in. The church is requesting a two-year extension for the building of the street because: 1) the church has no need for it at this time; and 2) they contacted the owner of the property immediately to the north who has the property listed for sale. Therefore, it is unknown what the disposition or use of the property will be. The church would prefer to wait until that property issue resolves itself, giving them an opportunity to work with the new owners and share 50% of the cost of putting in that street. The water distribution system and drainage system would be delayed until such time as the street is put in. The church is interested in doing the landscape screen on 84<sup>th</sup> Street, but it might be better to wait until the fall season.

Steward asked whether this has been discussed with the current property owner. Lamphere believes there is a letter from Jack Herbert, who is opposed to doing anything with that street at this time. He also talked with a potential buyer of the property and in that conversation he was able to determine that the seller had in fact shared with him the obligation to fund half the cost of the street.

**2. Mike Johnson**, 3736 So. 83<sup>rd</sup> Street Circle, attends the church and is on the Building & Grounds Committee. This plat was originally platted by ESP with one big outlot “and we were the first ones in”. In order to get a building permit, we were required to plat our lot. The original plat and CUP showed a road bisecting those two future lots and that is how the condition for Rockledge Road came about.

Dennis Bartels of Public Works clarified that the property to the north is in the Stevens Creek Watershed. The majority of this church lot is also in the Stevens Creek Watershed. The vacant piece of ground had some commercial approved with 6 apartment units. The design approved was such that the west side of the property could be sewerred along the west line without extensive grading, so there is some development approved on that lot north of this proposed street.

Steward noted that Rockledge Road apparently connects to other roads – one east of 84<sup>th</sup> and one east of Crown Pointe Road. Are there not some safety issues in terms of emergency vehicle access into this development to the west? Bartels stated that Rockledge Road would certainly provide another way to get into the development—it would be a second access. This is about 900'-1000' away from Van Dorn Street. It provides an alternate access in and out of there but the other one is designed as a collector street for access back into the subdivision and access to the school.

Bills-Strand inquired whether there is a deadline on putting in that road. Bartels stated that the deadline has been previously extended several times and this is another request of extension. Bills-Strand noted there to be a lot of houses in there and she is concerned about emergency fire vehicles getting into the development.

**Response by the Applicant**

Johnson clarified that the access off of 84<sup>th</sup> Street will be right-in and right-out, and that was done because of Lincoln Benefit Life to the east. There is limited access so there will not be people using that on a regular basis. He does not believe people will go out that way, but instead will go to the west.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

May 14, 2003

Taylor moved to approve the staff recommendation of conditional approval, seconded by Larson and carried 6-1: Bills-Strand, Carlson, Duvall, Larson, Taylor and Schwinn voting 'yes'; Steward voting 'no'; Krieser absent; Newman resigned.

\*\*\*\* Break \*\*\*\*

**COUNTY SPECIAL PERMIT NO. 198**

**and**

**COUNTY PRELIMINARY PLAT NO. 03000,**

**WYNDAM PLACE COMMUNITY UNIT PLAN,**

**ON PROPERTY GENERALLY LOCATED AT**

**N. 176<sup>TH</sup> STREET AND HOLDREGE STREET.**

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 14, 2003

Members present: Bills-Strand, Steward, Carlson, Duvall, Larson, Taylor and Schwinn; Krieser absent; Newman resigned.

Staff recommendation: Conditional approval, as revised on May 1, 2003.

Ex parte communications: None.

**Proponents**

1. **Kent Seacrest** appeared on behalf of **Connie and Bernie Heier** and continued to present this application for the AG clustered community unit plan process where the balance of the ag land is preserved for farming activities. The applicants believed they were in compliance with the Comprehensive Plan by doing the AG cluster. The property is right at the edge of the county so it is not in the next 75-year growth area of Lincoln. The developed

portion of the site is on the non-prime ag land area. They were able to show that there is good well water—they also have support and letters for rural water, if necessary. They had done three perc tests on three of the lots, the results of which were good. They had agreement with the County Engineer on how to handle Holdrege Street; and there was a staff recommendation of conditional approval. The application also showed adequate screening because this development is being placed against acreages both to the east and north. There are three other acreages that this development abuts.

Seacrest then explained what has occurred in the last four weeks. There had been considerable opposition with concerns about Holdrege Street being too “roller-coaster” and hilly, and that the two access points proposed would be too dangerous. During the four week period, the developer has submitted a revision because the neighbors thought they should come out onto 176<sup>th</sup> Street. The application was resubmitted, deleting the east Holdrege access point, adding the 176<sup>th</sup> Street/Holdrege access point and keeping the west Holdrege access point. The County Engineer has concluded that the west Holdrege access point can meet the county safety standards. The bottom line is that the neighbors are happier with this circulation plan, making this a safer situation for the neighborhoods.

Seacrest then discussed the second issue, which had to do with adequate buffering of the Wyndam Place acreages from the other neighborhood acreages with regard to carrying out agricultural practices and the nuisance issue. Seacrest submitted a photograph which shows that they are pretty well buffered and he believes they have worked through that situation. This developer even offered to sell their whole east edge to the neighbors at a discounted price. They have come to a compromise today where this developer will put a 100' setback along the east edge where no homes would be allowed against the eastern neighbors. The 50' setback would be for septic, lagoons or outbuildings. 100' is double the standard. Seacrest believes the neighborhood has agreed with this compromise.

Another issue which Seacrest discussed had to do with “headlights”. On the west access point, there was a house and the original submitted plan was more at a 90 degree angle. The revised plan skews that road to angle off to the northwest direction so that the beams of light will not go in the direction of that house. This has also been worked out with the County Engineer.

Seacrest submitted proposed amendments to the conditions of approval based on his testimony.

Seacrest believes they have reached agreement with the neighbors on all the key issues and he knows the County Engineer is in support. The Planning staff is also recommending approval.

Seacrest expressed appreciation to Ms. Sass and their willingness to work with this developer.

**Support**

**1. Lori Sass**, 18401 Holdrege, abutting the Heier property, and who also farms north of Adams Street, testified on behalf of the many neighbors who showed up at the last hearing in opposition. She is now testifying in support. She agreed with Mr. Seacrest's compromise. The neighbors have agreed to the 100' setback along the Sass property line, which is an increase by 50'. The applicant has added the 176<sup>th</sup> Street entrance, which the neighbors believe will take some of the pressure off of Holdrege Street, which is a very dangerous road. The one entrance off the west end of Holdrege Street is angled to avoid nuisance to the Keele property. The neighbors are in basic agreement; however, Holdrege Street continues to be a huge concern to all of the neighbors and it probably isn't sufficient to fix that road in front of this development and then leave the rest of it. She believes that is asking for an accident to happen. The neighbors have been assured many times by the Heiers that Mr. Heier intends to farm the remaining property and has no intentions to request zone changes to further develop the remainder of the land. She is hopeful that he will abide by those assurances.

There was no testimony in opposition.

Carlson inquired whether the staff agrees with the amendments proposed by the applicant. Mike DeKalb of Planning staff understands that these revisions have been found acceptable by the County Engineer and the Planning staff does not object.

**COUNTY SPECIAL PERMIT NO. 189**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

May 14, 2003

Duvall moved to approve the revised staff recommendation of conditional approval, with the amendments requested by the applicant, seconded by Bills-Strand.

Duvall believes the applicant has done a good job in bringing this together with the neighborhood for a win-win situation.

Larson stated that he feels good about this, too. Obviously people on both sides of the issue have been willing to compromise.

Motion for conditional approval, with amendments, carried 7-0: Bills-Strand, Steward, Carlson, Duvall, Larson, Taylor and Schwinn voting 'yes'; Krieser absent; Newman resigned.

**COUNTY PRELIMINARY PLAT NO. 03000**

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

May 14, 2003

Duvall moved to approve the revised staff recommendation of conditional approval, with the amendments proposed by the applicant, seconded by Bills-Strand and carried 7-0: Bills-



Strand, Steward, Carlson, Duvall, Larson, Taylor and Schwinn voting 'yes'; Krieser absent; Newman resigned.

**SPECIAL PERMIT NO. 2009**  
**FOR A GARDEN CENTER**  
**ON PROPERTY GENERALLY LOCATED**  
**AT S.W. 69TH STREET AND WEST "O" STREET.**  
**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 14, 2003

Members present: Bills-Strand, Steward, Carlson, Duvall, Larson, Taylor and Schwinn; Krieser absent; Newman resigned.

Staff recommendation: Conditional approval.

Ex parte communications: None.

Mike DeKalb of Planning staff submitted a letter received this morning from Becky Vandenberg on behalf of SID #6. The SID has agreed to allow the special permit with the written agreement of the owner to work with the SID in regard to conservation of water. The SID is also requesting a condition that the owner be required to inform the SID of changes and be required to get approval from the SID prior to any changes occurring. The SID's primary concern is the water system. Ms. Vandenberg's letter discusses the Wellhead Protection District as being a voluntary program, but once someone becomes a participant in the program, all of their ordinances do become law and there are ordinances on the books in regard to irrigation.

Proponents

**1. Brian Carstens** appeared on behalf of the owner. The site is currently being operated as a nursery and the Benes's would like to open it up for some retail sales. The applicant agrees with the proposed conditions of approval.

**2. Bob Benes, Pine Valley Nursery and Aspen Builders,** the applicant, testified. He started a tree farm at this location on 40 acres and he has permits for two domestic wells. He can irrigate up to 2 acres per well; however, he irrigates one acre at the most. Emerald's wells are across the street to the north. Middle Creek also runs there. Benes believes he can get as close to the Emerald wells as he wants, but his wells are 550' and 800' away from the Emerald wells. He is not going to do commercial wells. Nothing is going to change with this special permit. His water usage will not change. This special permit is only to allow retail sales. Benes stated that he is learning some conservation techniques and he has changed the irrigation to use less water.

Benes noted that Emerald is in the process of moving their wells. They should have never been put there in the first place. His wells are perfectly legal and permitted. He noted that Emerald is concerned about chemicals and increased nitrate problem. He explained at the meeting with Emerald that he does not use many chemicals in the nursery and he does not store chemicals or pesticides. He does spray trees once in awhile.

Benes acknowledged that his property is in the Emerald Wellhead Protection District. This program is money which is allocated to educate people on practices they can do to minimize the effect on the Emerald wells. Benes has talked with DEQ, and it is his understanding that the Wellhead Protection Program is voluntary and is simply an educational program. They are not a governing body. Emerald is not incorporated and does not have ordinances. The SID can pass rules but they can only govern the people to which they supply water. Benes believes that as long as he agrees to resolve any water problems that are encountered, Emerald SID will support this special permit.

Benes acknowledged that he did sign a letter agreement stating that he will conserve and resolve any water problems. The rest of the information in the Vandenberg letter was added after the meeting last night where they came to a great consensus. He irrigates less than 2 acres and he complies with all regulations and requirements.

In response to questions posed by Duvall, Benes stated that his wells are about 35' deep. In the heat of the summer, he waters at night on a four-hour cycle (as much as a garden hose stream for four hours). The well is only rated at 25.

There was no testimony in opposition.

Carlson asked staff to interpret the requests set forth in the Vandenberg letter. Mike DeKalb was at the meeting between the developer and the SID, and after receiving the letter he called the SID for clarification. The SID wants a condition added that the SID must approve any changes, but the Vice-President of the SID disagrees with that portion of the letter.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

May 14, 2003

Duvall moved approval, with conditions as set forth in the staff report, seconded by Larson and carried 7-0: Bills-Strand, Steward, Carlson, Duvall, Larson, Taylor and Schwinn voting 'yes'; Krieser absent; Newman resigned.

Note: This is final action, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

**SPECIAL PERMIT NO. 2005,**  
**BETTY'S HAVEN COMMUNITY UNIT PLAN,**  
**ON PROPERTY GENERALLY LOCATED AT**  
**S. CODDINGTON AND WEST SOUTH STREET.**  
**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:**

May 14, 2003

Members present: Bills-Strand, Steward, Carlson, Duvall, Larson, Taylor and Schwinn; Krieser absent; Newman resigned.

Staff recommendation: Conditional approval.

Ex parte communications: Duvall reported that someone stopped him on the street to discuss this application and he encouraged them to join the public process.

Becky Horner of Planning staff submitted two additional items of information, including a letter in opposition and an additional condition of approval proposed by the staff to make the community unit plan conditions consistent with what would normally be required on a preliminary plat.

Proponents

1. **Peter Katt** appeared on behalf of **Hartland Homes**, the developer, and Mr. and Mrs. Schmidt, the owners of the property. This is a fairly straight forward CUP and special permit to approve a townhome development on a 5-acre tract on South Street and Coddington. Katt expressed appreciation for the previous deferral of this application because it has allowed the developer to have two meetings with the neighborhood association, where the developer provided additional details and answered a lot of questions. The owner and applicant agree with the staff requirements and conditions of approval.

2. **Brian Carstens** showed a larger-scale rendering of the 5.01 acres. The front of the property off of Coddington is the Schmidt home which will remain on the large lot; in the rear of the lot there is a barn that will be removed; there is a number of existing street trees; and the rendering showed the buildings proposed to be built.

Opposition

1. **Deb Vocasek** 1903 W. Mulberry Ct., testified as a resident and on behalf of the West "A" Neighborhood Association. She also expressed appreciation for the deferral to give the neighbors time to meet with the applicant. She lives in this neighborhood; her parents live in this neighborhood; her son has purchased a home across the street from this development; and her sister lives about six blocks away. They believe this to be a "family area". Unfortunately, however, they have had their fair share of problems with this developer in the

past and they are not very trusting, thus there is some skepticism about this proposal. The neighbors have encountered problems with this developer from the standpoint of not putting in sidewalks on a development which is right across the street from the school. The neighbors had to picket Hartman to get attention and to force him to put the sidewalks in. The neighbors are worried about this kind of thing. The neighbors are concerned about the value of their homes; the volume of people in this development with one outlet; parking; water pressure, which is already a major problem in this area; safety of children; sidewalks; and there being only one entrance to this development. All of the children come down the sidewalk in front of the Schmidt's house; the sidewalks must be installed; we can't wait for sidewalks to go in after the work is done. The neighbors are also concerned about multi-renters. They would have rather seen six or eight houses developed. But, the biggest concern is to keep up with the sidewalks. There is no busing out there and there are many developments out in this area without sidewalks. The sidewalks have to be installed right away for the safety of the children. Vocasek also requested a stockade fence (all of one kind) on the north side and possibly on the south side. The neighbors are concerned about the overflow parking on the streets, the multiple renters and the water detention pond. If the developer will work with the neighbors on these issues, the neighbors are willing to work with him.

It was clarified that there are sidewalks on the north side of South Street currently, but not on the south side.

### Support

**1. Gene Schmidt**, owner of the property in question, also testified. He has also been on the Board of the West "A" Neighborhood Association in the past, and he, too, is concerned about the children. His concern is that the neighborhood is saying that he sold the property to the wrong developer. The neighbors picket the Hartland Home open houses every year for no reason. The traffic on that corner is not going to make it any harder for the kids because they have two sidewalks going to the school. That intersection is just busy for about 15-20 minutes.

### Response by the Applicant

Katt stated that while the first meeting with the neighborhood association was a little tense, the second one was very productive. He believes there is some opportunity to work favorably with the neighborhood association. There is a major development immediately to the west where South Street is hoped to be connected to S.W. 27th, which will provide another access route out and around this neighborhood. At this point, they are still trying to get the state to join in creating a paving district to improve that access.

Katt offered to add to the conditions of approval:

To require a 6' high solid screen fence between the required landscape screen and the townhome lots adjoining South Street.

To construct sidewalk along South Street contemporaneous with getting the project ready for occupancy.

Becky Horner stated that the staff would agree with the proposed additional conditions.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

May 14, 2003

Steward moved approval, with conditions, with the amendments proposed by the applicant, seconded by Larson and carried 7-0: Bills-Strand, Steward, Carlson, Duvall, Larson, Taylor and Schwinn voting 'yes'; Krieser absent; Newman resigned.

There being no further business, the meeting was adjourned at 3:30 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on May 28, 2003.